

## **5.06 Variances**

5.06.1 Intent. It is the intent of this section to provide a process for relief from the occasional inequities created by the physical standards of these Regulations when such standards create a substantially unequal burden on a particular parcel of land in a fashion that would otherwise prevent the reasonable use of the property owing to physical circumstances unique to that parcel. In addition, the intent of this section is to prohibit the granting of variances that would be contrary to the public interest and endanger public health, safety and welfare. No variance shall be granted to allow the use or development of property for a purpose not authorized within the zone in which the proposed development would be located.

5.06.2 Criteria. In granting a variance, the Board of Adjustment (BOA) shall issue findings setting forth factual evidence that the variance:

1. Will observe the intent and purpose of these Regulations, including the Gallatin County Growth Policy, and do substantial justice.
2. Will not be injurious to the public health, safety, and general welfare.
3. Will not be contrary to and will serve the public interest.
4. Is necessary, owing to conditions unique to the property, to avoid unnecessary hardship which would unavoidably result from the enforcement of the literal meaning of these Regulations:
  - a. Hardship does not include difficulties arising from actions, or otherwise be self-imposed, by the applicant or previous predecessors in interest, or potential for greater financial returns; and
  - b. Conditions unique to the property may include slope, presence of watercourses, after-the-fact imposition of additional regulations on previously lawful parcels, and governmental actions outside of the owner's control.
5. Is the minimum relief necessary to provide reasonable use of the property.

5.06.3 Procedure. All variance applications shall be submitted to the Planning Department on the required form with the accompanying fee. A hearing on the matter is scheduled before the BOA, and the BOA shall either approve or deny the application based on the facts. The BOA may impose reasonable conditions, as it may deem necessary to mitigate project impacts. The concurring vote of three members of the BOA shall be necessary to decide in favor, wholly or partly, of any variance from these Regulations.

5.06.4 Notice. Notice of the public hearing shall be published at least once fifteen (15) days prior to the hearing in a newspaper of general circulation. Adjacent property owners shall be noticed by certified mail.